

1 Michael R. Lozeau (State Bar No. 142893)
2 Marjan R. Abubo (State Bar No. 349361)
3 LOZEAU DRURY LLP
4 1939 Harrison St., Suite 150
5 Oakland, CA 94612
6 Tel: (510) 836-4200
7 E-mail: michael@lozeaudrury.com
8 marjan@lozeaudrury.com

JS-6

7 Barak Kamelgard (Bar No. 298822)
8 Email: barak@lawaterkeeper.org
9 Benjamin Harris (Bar No. 313193)
10 Email: ben@lawaterkeeper.org
11 LOS ANGELES WATERKEEPER
12 360 E 2nd Street, Suite 250
13 Los Angeles, CA 90012
14 Phone: (310) 394-6162

13 Attorneys for Plaintiff
14 LOS ANGELES WATERKEEPER

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17
18 LOS ANGELES WATERKEEPER, a
19 California non-profit association,

20 Plaintiff,

21 v.

22 DYWIDAG SYSTEMS
23 INTERNATIONAL, USA, INC., a New
24 York corporation,

25 Defendant.
26
27
28

Case No. Case No. 2:24-cv-01657-AS
[PROPOSED] CONSENT DECREE

CONSENT DECREE

WHEREAS, Plaintiff Los Angeles Waterkeeper (“LA Waterkeeper” or “Plaintiff”) is a 501(c)(3) non-profit public benefit corporation organized under the laws of the State of California, with its main office in Los Angeles, California;

WHEREAS, LA Waterkeeper is dedicated to the preservation, protection and defense of the surface, ground, coastal and ocean waters of Los Angeles County from all sources of pollution and degradation;

WHEREAS, Defendant Dywidag Systems International, USA, Inc. (“Defendant”) operates a facility at 2154 South Street, Long Beach, California, 90805, under Waste Discharger Identification number 4 19I026025 (“Facility”);

WHEREAS, the Facility’s industrial activities include manufacturing covered steel cable and bars. The Facility is categorized under Standard Industrial Classification (“SIC”) Code 3496, covering Fabricated Metal Products;

WHEREAS, storm water discharges associated with industrial activity at the Facility are regulated by the National Pollutant Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [State Water Resources Control Board], Water Quality Order 2014-0057-DWQ, as amended by Order Nos. 2015-0122-DWQ and 2018-0028-DWQ (“General Permit” or “Permit”), and the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, *et seq.* (“Clean Water Act” or “CWA”), Sections 301(a) and 402, 33 U.S.C. §§ 1311(a), 1342;

WHEREAS, discharges of pollutants into waters of the United States from the Facility are regulated by the Clean Water Act Sections 301(a) and 402. 33 U.S.C. §§ 1311(a), 1342;

WHEREAS, the General Permit requires all permittees, including Defendant, to comply with, inter alia, the following mandates: (1) develop and implement a storm water pollution prevention plan and a storm water monitoring implementation plan, (2) control pollutant discharges using, as applicable, best available technology economically achievable or best conventional pollutant control technology to prevent

1 or reduce pollutants through the development and application of Best Management
2 Practices, which must be detailed in and timely updated in the SWPPP, (3) reduce
3 and eliminate discharges necessary to comply with any and all applicable Water
4 Quality Standards, and (4) implement a monitoring and reporting program, including
5 the MIP, designed to assess compliance with the Permit;

6 **WHEREAS**, on November 6, 2023, Plaintiff issued a notice of intent to file
7 suit (“60-Day Notice Letter”) to Defendant, its registered agent, the Administrator of
8 the United States Environmental Protection Agency (“EPA”), the Executive Director
9 of the State Water Resources Control Board (“State Board”), the Executive Director
10 Los Angeles Regional Water Quality Control Board (“Regional Board”), and the
11 Regional Administrator of EPA Region IX, alleging violations of the Clean Water
12 Act and the General Permit Water Quality Order 2014-0057-DWQ, as amended by
13 Order Nos. 2015-0122-DWQ and 2018-0028-DWQ incorporating: 1) Federal
14 Sufficiently Sensitive Test Method Ruling; 2) Total Maximum Daily Load
15 Implementation Requirements; and 3) Statewide Compliance Options Incentivizing
16 On-Site or Regional Storm Water Capture and Use, at the Facility;

17 **WHEREAS**, on February 28, 2024, LA Waterkeeper filed a complaint against
18 Defendant in the Central District of California (“Court”), Civil Case No. 2:24-cv-
19 01657 (“Complaint”);

20 **WHEREAS**, Plaintiff’s Complaint alleged violations of the General Permit
21 and the Clean Water Act for Defendant’s discharges of pollutants into storm drains
22 and surface waters, including the Los Angeles River (collectively, “Receiving
23 Waters”);

24 **WHEREAS**, Plaintiff and Defendant (collectively, “Settling Parties” or
25 “Parties”) agree that it is in their mutual interest to enter into a Consent Decree
26 setting forth terms and conditions appropriate to resolving the allegations set forth in
27 the 60-Day Notice Letter and Complaint without further proceedings;
28

1 **WHEREAS**, all actions taken by Defendant pursuant to this Consent Decree
2 shall be made in compliance with all applicable federal, state and local laws, rules
3 and regulations.

4 **NOW, THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE**
5 **SETTLING PARTIES AND ORDERED AND DECREED BY THE COURT AS**
6 **FOLLOWS:**

7 1. The Court has jurisdiction over the subject matter of this action pursuant
8 to Section 505(a)(1)(A) of the CWA, 33 U.S.C. § 1365(a)(1)(A).

9 2. Venue is appropriate in the Central District Court pursuant to Section
10 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the Facility at which the
11 alleged violations are taking place is located within this District.

12 3. The Complaint states a claim upon which relief may be granted against
13 Defendant pursuant to Section 505 of the CWA, 33 U.S.C. § 1365.

14 4. LA Waterkeeper has standing to bring this action.

15 5. The Court shall retain jurisdiction over this action for purposes of
16 interpreting, modifying, or enforcing the terms of this Consent Decree, or as long
17 thereafter as necessary for the Court to resolve any motion to enforce this Consent
18 Decree, but only regarding issues raised within the Term (as defined below) of this
19 Consent Decree.

20 **I. OBJECTIVES**

21 6. It is the express purpose of the Settling Parties through this Consent
22 Decree to further the objectives of the Clean Water Act, and to resolve all issues
23 alleged by LA Waterkeeper in its 60-Day Notice Letter and Complaint. These
24 objectives include compliance with the provisions of this Consent Decree,
25 compliance with all terms and conditions of the General Permit, and compliance with
26 all applicable sections of the CWA.

7. In light of these objectives and as set forth fully below, Defendant agrees to comply with the provisions of this Consent Decree, terms and conditions of the General Permit, and all applicable sections of the CWA at the Facility.

II. AGENCY REVIEW AND CONSENT DECREE TERM

A. AGENCY REVIEW OF CONSENT DECREE

8. Agency Review. Plaintiff shall submit this Consent Decree to the United States Department of Justice and the EPA (the “Federal Agencies”) for agency review consistent with 40 C.F.R. § 135.5. The agency review period expires forty-five (45) calendar days after receipt by the Federal Agencies, as evidenced by certified return receipts, or upon the date that the Federal Agencies provide a no objection letter, whichever is earlier (“Agency Review Period”). In the event that the Federal Agencies object to entry of this Consent Decree or to any portion of this Consent Decree, the Parties agree to meet and confer to attempt to resolve the issue(s) raised by the Federal Agencies. If the Parties are unable to resolve any issue(s) raised by the Federal Agencies in their comments, the Parties agree to expeditiously seek a settlement conference with the assigned Magistrate Judge to resolve any issue(s).

9. Court Notice. Plaintiff shall notify the Court of the receipt date by the Federal Agencies, as required by 40 C.F.R. § 135.5, in order to coordinate the Court’s calendar with the 45-day review period.

10. Entry of Consent Decree. Following the expiration of the Agency Review Period, Plaintiff shall submit the Consent Decree to the Court for entry.

B. DEFINITIONS

11. Unless otherwise expressly defined herein, terms used in this Consent Decree which are defined in the CWA or in regulations or rules promulgated under the CWA have the meaning assigned to them in the statutes or regulations or rules. Whenever terms listed below are used in this Consent Decree, whether or not capitalized, the following definitions apply:

- a. “BAT” means the Best Available Technology Economically Achievable.
- b. “BCT” means the Best Conventional Pollutant Control Technology, and collectively with BAT is referred to herein as “BAT/BCT.”
- c. “BMPs” means Best Management Practices as defined in Attachment C (Glossary) of the General Permit.
- d. “Consent Decree” means this Consent Decree and any attachments or documents incorporated by reference.
- e. “Day” means a calendar day. In computing any period of time under this Consent Decree, where the last day of such period is a Saturday, Sunday, or Federal or State Holiday, the period runs until the close of business on the next day that is not a Saturday, Sunday, or Federal or State Holiday.
- f. “Design Storm” means the volume and flow rate of runoff produced from an 85th percentile, 24-hour storm event as defined in General Permit Section X.H.6.
- g. “Discharge Point” means each discharge location designated in the then-current SWPPP for the Facility.
- h. “Effective Date” means the effective date of this Consent Decree, which shall be the date of full execution by the Parties.
- i. “Entry Date” means the day this Consent Decree is approved and entered by the Court.
- j. “Forecasted Rain Event” means a forecasted rain event as determined by the National Oceanic and Atmospheric

Administration (<http://forecast.weather.gov/>) for “90805, Long Beach, CA, USA”.¹

- k. “MIP” means a Monitoring Implementation Plan.
- l. “PPT” means Pollution Prevention Team.
- m. “Qualified Industrial Storm Water Practitioner” or “QISP” shall have the definition set forth in Section IX.A.1 of the General Permit.
- n. “Qualifying Storm Event” or “QSE” shall have the definition set forth in Section XI.B.1 of the General Permit.
- o. “Reporting Year” means the period from July 1 of a given calendar year to June 30 of the following calendar year.
- p. “SMARTS” means the California State Water Resources Control Board’s Stormwater Multiple Application and Report Tracking System.
- q. “SWPPP” means a Storm Water Pollution Prevention Plan.
- r. “Term” means the period between the Effective Date and the “Termination Date.”
- s. “Termination Date” means the latest of:
 - i. June 30 following three (3) years from the Effective Date;
 - ii. June 30 following two (2) years after the treatment system is fully installed, operational, and optimized;
 - iii. June 30 following one (1) year after the treatment system is fully installed, operational, and optimized and the analytical results for four consecutive QSEs at the Facility taken after the treatment system is fully installed, operational, and

¹ Available at <https://forecast.weather.gov/MapClick.php?lat=33.8651&lon=-118.1461&unit=0&lg=english&FcstType=graphical>

optimized do not exceed any values set forth in Table 1 at Paragraph 22 below;

- iv. seven (7) days from the conclusion of any proceeding or process to enforce the Consent Decree initiated prior to the later of dates in Paragraphs 11.s.i., 11.s.ii. and 11.s.iii. above; or
- v. seven (7) days from Defendant's completion of all payments and other affirmative duties required by this Consent Decree.
- vi. Notwithstanding the foregoing, once Defendant satisfies the requirements of and the Regional Board approves a Notice of Termination pursuant to Section II.C of the General Permit, and all accrued monetary obligations in this Consent Decree have been met, the Termination Date of this Consent Decree shall be the day upon which Defendant provides written notification to LA Waterkeeper of the Regional Board's approval.
- t. "Wet Season" means the period beginning October 1st of any given calendar year and ending June 30th of the following calendar year.

III. COMMITMENTS OF THE SETTLING PARTIES

A. STORM WATER POLLUTION CONTROL BEST MANAGEMENT PRACTICES

12. Non-Storm Water Discharge Prohibition. Any unauthorized non-storm water discharge, as defined in the General Permit, shall be a violation of this Consent Decree.

13. Current and Additional Best Management Practices. At all times, Defendant shall implement BMPs identified in its SWPPP and BMPs described herein, and shall develop and implement additional BMPs as necessary to comply

1 with the provisions of this Consent Decree and the General Permit, including but not
 2 limited to those (1) necessary to comply with BAT/BCT-level pollutant reductions;
 3 and (2) the General Permit's Receiving Water Limitations, which require that
 4 discharges from the Facility "not cause or contribute to an exceedance of any
 5 applicable water quality standards" contained in a Statewide Water Quality Control
 6 Plan or the applicable Regional Board's Basin Plan.

7 14. Rain Gauge/Sensor. Defendant shall install and maintain an electronic
 8 rain gauge or sensor at the Facility within ten (10) days of the Effective Date. The
 9 rain gauge/sensor shall be capable of measuring precipitation down to at least 0.1
 10 inches, and record start/stop times and non-cumulative precipitation for each rain
 11 event. During the Term, Defendant shall collect data using the gauge/sensor for all
 12 precipitation events to the nearest 0.1 inch, including start/stop times. Data from the
 13 rain gauge/sensor shall be conclusive of precipitation quantities and timing for
 14 purposes of this Consent Decree.

15 15. Structural and Non-Structural BMPs for the Facility. Defendant shall
 16 develop and implement the following BMPs at the Facility:

17 a. Within forty-five (45) days of the Effective Date, Defendant shall
 18 develop and implement the following BMPs at the Facility:

19 i. Defendant shall continue to conduct hand-sweeping once a
 20 week in the Facility's loading/unloading area, on the main
 21 production driveway, and in the grouting areas. Defendant
 22 shall continue to use blowers at least once per week, prior to
 23 using the powered sweeper, and before each and every
 24 Forecasted Rain Event to remove accumulated materials
 25 from beneath outdoor storage areas in order to facilitate
 26 their removal with sweeping. In addition, within 30 days
 27 after the Effective Date, Defendant shall purchase and begin
 28 use of the Factory Cat Model TR ride-on floor sweeper

1 identified in Exhibit A. Not less than once per week and
2 before each and every Forecasted Rain Event, Defendant
3 shall employ the Factory Cat Model TR sweeper to sweep
4 the entirety of all accessible areas in the open outdoor
5 storage areas, loading/unloading area, open crane way area,
6 polybead silo area, and the Facility's storm water sampling
7 location (Sample Point 1).

8 ii. Defendant shall maintain the downspout tote filter that
9 collects storm water from the roof of the main production
10 building at the Facility. The filter rolls contained in the
11 downspout tote filters shall be replaced at least annually
12 each September and otherwise cleaned quarterly.
13 Defendant shall inspect the downspout tote filters before
14 each rain event to ensure their continued effectiveness. Any
15 deficiencies in the integrity or effectiveness of the
16 downspout tote filters shall be cured within three (3) days of
17 detection.

18 iii. Defendant shall identify the location and sequence of
19 multiple layers of media rolls to be deployed upstream and
20 around Sample Point No. 1. The rolls shall be deployed to
21 ensure that all storm water flowing to Sample Point No. 1
22 shall pass through multiple media rolls. The media rolls
23 shall be properly anchored to ensure storm water passes
24 through the rolls, rather than under them. The media rolls
25 shall be properly sized to ensure that storm water does not
26 overtop the rolls before passing through Sample Point No.
27 1. A narrative description, map, and photographs describing
28 the proper deployment of media rolls at Sample Point No. 1

1 shall be included in the Facility's employee Training
2 Materials and SWPPP.

3 iv. Defendant shall, during the Wet Season, and as necessary,
4 replace the wattles/filters/socks when degraded or
5 ineffective, including without limitation when there are rips,
6 tears or other visual damage, and/or sampling data
7 demonstrating the wattles/filters/socks are not sufficiently
8 reducing pollutant concentrations.

9 v. By the Effective Date, Defendants shall prepare and
10 institute a formal pre-rain protocol throughout the Wet
11 Season to be implemented within twenty-four (24) hours
12 prior to a Forecasted Rain Event, involving inspection of
13 any filters and wattles deployed at the site, removal of any
14 exposed waste material, and relocation of uncontained or
15 uncovered debris bins and trash cans under cover.

16 vi. Within seven (7) days of each of the above BMPs being
17 implemented, Defendant shall confirm to LA Waterkeeper
18 in writing, with photographs, that such BMP has been
19 implemented as set forth above.

20 b. By not later than September 1, 2024, Defendant shall develop,
21 install, and operate the following treatment/capture system at the
22 Facility:

23 i. Defendant shall install and operate the Stormproof 100
24 GPM Floc-Settle-Filter Treatment System ("Treatment
25 System") identified and described in Exhibits B, C and D,
26 which are hereby incorporated by reference as if fully set
27 forth herein. The sizing and pumping capacities identified
28 in Exhibits C and D are minimum requirements. The sizing

1 and pumping capacities of the Treatment shall be increased
2 whenever necessary to meet the “Design Storm Standards
3 for Treatment Control BMPs” requirements set forth in
4 Section X.H.6 of the Permit. Nothing in this Consent
5 Decree shall preclude Defendant from installing higher
6 pumping or storage capacities than depicted in Exhibit B
7 and C. The media employed in the Treatment System shall
8 be selected in order to maximize the removal of zinc and
9 nitrates + nitrites from the Facility’s storm water.

10 ii. Defendants shall install a sealed berm across the entirety of
11 the western edge of the Facility’s PT Equipment and
12 Loading & Unloading areas designed and sufficiently high
13 to contain water within the PT Equipment and Machinery &
14 Large Plastics Inventory areas. Defendant shall divert storm
15 water from a point upstream of Sample Point #1 to the
16 Facility’s Loading & Unloading, Fabricated Materials, PT
17 Equipment, and Machinery & Large Plastics Inventory
18 areas on the eastern portion of the Facility. Defendant shall
19 divert all storm water up to the storm water storage capacity
20 of the bermed storage areas without discharge. Such storm
21 water storage capacity shall be the maximum storage
22 resulting from the installation of the berm identified above
23 but, in no case, less than 65,000 gallons of storm water per
24 day.

25 iii. Defendant shall lay gravel on the west side of the berm
26 required by the preceding subparagraph. Defendants shall
27 ensure that all vehicles departing the PT Equipment or
28

1 Loading & Unloading areas shall exit those areas onto the
2 gravel.

3 iv. Defendant shall deploy the Dewatering bag depicted in
4 Exhibits D & E. All water seeping or otherwise discharging
5 from the Dewatering bag shall be routed through the
6 Treatment System.

7 v. Defendant shall ensure that any and all industrial storm
8 water discharging from the Facility up to a Design Storm
9 shall flow through the Treatment System before discharging
10 from the Facility.

11 vi. Within seven (7) days of the installation of the
12 treatment/capture system being completed and the
13 treatment/capture system being fully operational, Defendant
14 shall confirm to LA Waterkeeper in writing certified by a
15 QISP, with photographs, that installation of the system has
16 been completed and that the system is fully operational and
17 optimized.

18 **B. SAMPLING AT THE FACILITY**

19 16. Defendant shall develop a monitoring program consistent with the
20 General Permit. During the Term, Defendant shall collect samples of storm water
21 discharge from each Discharge Point from all Qualifying Storm Events. Such
22 sampling shall take place as soon as possible within the four (4) hour period required
23 by the General Permit § XI.B.5. If Defendant would have been required to collect
24 samples during a rain event pursuant to this Consent Decree had such rain event
25 produced a discharge, but Defendant did not collect samples because such rain event
26 did not produce a discharge, then Defendant shall document the inability to sample by
27 taking photographs during the rain event of each Discharge Point from which no
28 discharge occurred. Defendant shall submit such photographs to LA Waterkeeper by

1 email, along with rain gauge/sensor data for the date of such rain event, within five
2 (5) days of a written request for such records by LA Waterkeeper.

3 17. Sampling Parameters. All samples collected pursuant to this Consent
4 Decree shall be analyzed, at minimum, for the parameters listed in Table 1. Should
5 Defendant intend to conduct sampling for any additional parameters that are listed in
6 40 C.F.R. § 131.38 and/or in the General Permit for any reason, including without
7 limitation as a result of changed operations, a revised pollutant source assessment, or
8 a new mandate from a regulatory agency, such parameter shall be incorporated into
9 this Consent Decree as if listed in Table 1 for all purposes, including any Action Plan
10 requirements (as defined below). Defendant shall immediately notify LA
11 Waterkeeper of its intent to conduct sampling for any such additional parameters and
12 the Parties shall meet and confer regarding the applicable Table 1 limit for such
13 purposes within ten (10) days of such notification.

14 18. Laboratory and Holding Time. Except for pH samples, Defendant shall
15 deliver all samples to a California-certified environmental laboratory for analysis
16 within allowable hold times, pursuant to 40 C.F.R. Part 136. Analysis of pH will be
17 completed onsite using a portable instrument that is calibrated and used according to
18 the manufacturer's instructions.

19 19. Detection Limit. Defendant shall request that the laboratory use
20 analytical methods adequate to detect the individual contaminants at or below the
21 values specified in the General Permit and Table 1 below.

22 20. Reporting. Defendant shall provide complete laboratory results of all
23 samples collected at the Facility to SMARTS in accordance with the General Permit,
24 and shall provide copies to LA Waterkeeper within five (5) business days of receiving
25 the laboratory report with the results.

26 21. Source Sampling Plan. By the Effective Date, Defendant shall prepare
27 an additional "Source Sampling Plan" with a goal of evaluating whether and to what
28 extent materials that contain zinc and N+N that are exposed to storm water at the

Facility originated from the neighboring property immediately to the west of the Facility. At a minimum, the Source Sampling Plan shall include wipe testing at a minimum of twenty (20) selected sample surfaces throughout the Facility. The sample locations shall be selected in order to assist in determining the relative concentration levels of zinc and N+N pollutant sources. Defendant shall provide LA Waterkeeper a copy of the Source Sampling Plan prior to initiating its implementation. LA Waterkeeper shall have thirty (30) days upon receipt of Defendant's complete Source Sampling Plan to provide Defendant with comments. Within thirty (30) days of receiving LA Waterkeeper's comments and proposed changes to the Source Sampling Plan, Defendant shall consider each of the comments and proposed changes and either accept them or justify in writing why a change is not incorporated. The Parties agree to work in good faith to resolve any disputes with respect to the Source Sampling Plan, and any remaining disputes will be resolved through timely initiation of the dispute resolution procedures in Section IV below.

C. REDUCTION OF POLLUTANTS IN DISCHARGES

22. Table 1 Numeric Limits. Defendant shall develop and implement BMPs for storm water discharges from the Facility that reduce pollutant concentrations to levels below those in Table 1.

TABLE 1

Analytes	Values	Source of Limit
Zinc	0.159 mg/L	NEL
N+N	0.68 mg/L	Annual NAL

23. Table 1 Exceedances. An "Exceedance" of Table 1 is defined as follows: where the concentration of any pollutant in any storm water sample from the Facility exceeds any numeric limit contained in Table 1. An Exceedance shall constitute a violation of this Consent Decree.

1 24. Action Plan for Table 1 Exceedances. As of the Effective Date, and for
 2 the remainder of the Term, if Defendant has an unauthorized non-storm water
 3 discharge in violation of Paragraph 12, a by-pass of storm water past the Treatment
 4 System or containment berm when volumes or flows are less than the Design Storm
 5 capacities set forth in Paragraph 15 above, or storm water samples demonstrate an
 6 Exceedance as defined above, Defendant shall prepare and submit to LA Waterkeeper
 7 a plan for reducing and/or eliminating the relevant discharge of pollutants for the
 8 Facility and/or achieving compliance with the non-storm water discharge prohibition
 9 (“Action Plan”). The complete Action Plan shall be submitted to LA Waterkeeper
 10 within thirty (30) days of the unauthorized non-storm water discharge, by-pass of
 11 storm water past the Treatment System or containment berm, or the receipt of the
 12 laboratory report demonstrating the Exceedance, as applicable.

- 13 a. Action Plan Requirements. Each complete Action Plan submitted
 14 shall include at a minimum: (1) the identification of the
 15 contaminant(s) discharged in excess of the numeric limit(s),
 16 unauthorized by-pass of storm water past the Treatment System or
 17 containment berm, and/or the applicable unauthorized non-storm
 18 water discharge; (2) an assessment of the source of each
 19 contaminant exceedance, sizing or containment requirement,
 20 and/or applicable unauthorized non-storm water discharge; (3) the
 21 identification of additional BMPs that shall be implemented to
 22 achieve compliance with the numeric limit(s), sizing or
 23 containment requirement, and/or unauthorized non-storm water
 24 discharge prohibition, as well as the design plans and calculations
 25 of these additional BMPs; and (4) time schedules for
 26 implementation of the proposed BMPs. The time schedule(s) for
 27 implementation shall ensure that all BMPs are implemented as
 28 soon as possible, but in no event later than ninety (90) days

1 following the submission of the Action Plan, unless a later
2 implementation date is mutually agreed upon by the Settling
3 Parties. Within seven (7) days of each of the BMPs set forth in the
4 Action Plan being implemented, Defendant shall confirm to LA
5 Waterkeeper in writing, with photographs, that such BMP has
6 been implemented as set forth in the Action Plan.

- 7 b. Action Plan Proposed BMPs. The following BMPs should
8 generally be evaluated for inclusion in Action Plans to attain the
9 Table 1 levels in the Facility's storm water discharges:
- 10 i. Hydrologic Controls. Installation of additional berms or
11 equivalent structural controls necessary to reduce or prevent
12 storm water from flowing off site other than through the
13 engineered storm water conveyance system or storm water
14 retention or treatment facilities.
- 15 ii. Sweeping. The increased/more frequent use of sweepers
16 and manual sweeping in otherwise inaccessible areas.
- 17 iii. Treatment Systems. Installing additional components or
18 systems, or otherwise improving, the advanced storm water
19 treatment system, or making changes to the operation and
20 maintenance protocols for such system, to provide more
21 effective filtration treatment of storm water prior to
22 discharge.
- 23 iv. Evaluation of Existing BMPs. Replacing, rehabilitating, or
24 eliminating existing BMPs, taking into account the age of
25 the BMPs involved or employed, the engineering aspect of
26 the application of various BMPs, and any adverse
27 environmental impact of the BMPs.
28

- 1 c. Action Plan Review. LA Waterkeeper shall have thirty (30) days
 2 upon receipt of Defendant's complete Action Plan to provide
 3 Defendant with comments. Within fourteen (14) days of receiving
 4 LA Waterkeeper's proposed revisions to an Action Plan,
 5 Defendant shall consider each of LA Waterkeeper's recommended
 6 revisions and accept them or justify in writing why any comment
 7 is not incorporated. Action Plan(s) developed and implemented
 8 pursuant to this Consent Decree are an obligation of this Consent
 9 Decree. Any disputes as to the adequacy of an Action Plan shall
 10 be resolved pursuant to the dispute resolution provisions of this
 11 Consent Decree, set out in Section IV below. Disputes regarding
 12 the adequacy of a particular BMP shall not impact the schedule for
 13 implementing any other BMP set forth in the Action Plan.
- 14 d. Defendant shall revise the then-current SWPPP to reflect the
 15 changes required by the Action Plan, as set forth in Paragraph 29
 16 below.
- 17 e. Action Plan Payments. Defendant shall pay Four Thousand
 18 Dollars (\$4,000.00) each time an Action Plan is submitted to LA
 19 Waterkeeper. Payments are due at the same time that the
 20 applicable Action Plan is submitted and shall be made to "Los
 21 Angeles Waterkeeper" via certified mail, return receipt requested
 22 to Los Angeles Waterkeeper, c/o Barak Kamelgard, 360 E 2nd
 23 Street Suite 250, Los Angeles, CA 90012. Failure to submit a
 24 payment as required under this Paragraph will constitute a breach
 25 of the Consent Decree.

26 **D. VISUAL OBSERVATIONS**

27 25. Storm Water Discharge Observations. During the Term, appropriately
 28 trained staff of Defendant shall conduct visual observations during the Facility's

1 operating hours during every rain event. Such inspections shall comply with all
2 requirements of Section XI.A.2 of the General Permit, and any successor thereof.

3 26. Monthly Visual Observations. During the Term, appropriately trained
4 staff of Defendant shall conduct monthly non-storm water visual observations of the
5 Facility. Such inspections shall comply with all requirements of Section XI.A.1 of the
6 General Permit, and any successor thereof. Such monitoring shall include outfalls,
7 Discharge Points, outdoor industrial equipment and storage areas, outdoor industrial
8 activities areas, BMPs, and all other potential sources of industrial pollutants. All
9 Discharge Points shall also be inspected for accumulation of dust, sediment, sand,
10 grit, oily substances, oily sheens upon any standing water, and other materials
11 associated with operations at the Facility. During the Wet Season, such inspections
12 shall further include observations of all storm water BMPs that are used only during
13 the Wet Season at the Facility to ensure that operational BMPs are being
14 implemented, structural BMPs are in good condition or working order, and that
15 BMPs have been effective in producing clean conditions at the Facility. Such
16 inspections shall further include observation as to whether there are any non-storm
17 water discharges from the Facility.

18 27. Visual Observations Records. Defendant shall maintain observation
19 records, including representative photographs, to document compliance with
20 Paragraphs 25 and 26. Such records shall include, but not be limited to, the persons
21 who completed the inspection, the date of the inspection, and notes sufficient to
22 describe the completed activity and all observations thereof, including but not limited
23 to: (i) whether BMPs are in an proper, working condition; (ii) whether any repair,
24 replacement, or operation and maintenance is needed for any BMPs; (iii) other
25 conditions that have the potential to lead to pollutant loading in storm water
26 discharges; and (iv) photographs of all the foregoing. Defendant shall provide LA
27 Waterkeeper with a copy of those records within seven (7) days of receipt of a written
28 request from LA Waterkeeper for those records.

1 28. Employee Training Program. Within thirty (30) days of the Effective
 2 Date, Defendant shall develop and implement an employee training program that
 3 meets the following requirements and ensures (1) that there is a sufficient number of
 4 employees at the Facility designated to achieve compliance with the General Permit
 5 and this Consent Decree (“Designated Employees”), and (2) that these Designated
 6 Employees are properly trained to perform the activities required by the General
 7 Permit and this Consent Decree (“Training Program”):

- 8 a. Materials. Training materials should include, at minimum, a
 9 detailed Training Manual or Standard Operating Procedure,
 10 including drawings and diagrams where appropriate, for reference
 11 and use by Defendant’s personnel to ensure effective
 12 implementation of all BMPs at the Facility;
- 13 b. Language. The training and training materials shall be available
 14 and offered in the language(s) in which relevant employees are
 15 fluent. If necessary, Defendant shall provide a translator or
 16 translators at all trainings where such translation is likely to
 17 improve staff comprehension of the Training Program and
 18 improve compliance with this Consent Decree and the General
 19 Permit;
- 20 c. Training Frequency. Training shall be provided by a QISP
 21 familiar with the requirements of this Consent Decree and the
 22 General Permit, and shall be repeated as necessary to ensure that
 23 all relevant employees are familiar with the requirements of this
 24 Consent Decree, the Permit, and the Facility’s SWPPP. All
 25 relevant new staff shall receive this training before assuming
 26 responsibilities for implementing the SWPPP;
- 27 d. Sampling Training. Defendant shall designate an adequate number
 28 of employees necessary to collect storm water samples as required

- 1 by this Consent Decree, including training to ensure samples are
2 properly collected, stored, and submitted to a certified laboratory;
- 3 e. Visual Observation Training. Defendant shall provide training on
4 how and when to properly conduct visual observations to
5 Designated Employees;
- 6 f. Non-Storm Water Discharge Training. Defendant shall train all
7 Designated Employees at the Facility on the General Permit's
8 prohibition of non-storm water discharges, so that Designated
9 Employees know what non-storm water discharges are and how to
10 detect and prevent non-storm water discharges;
- 11 g. Employees. All Designated Employees at the Facility shall
12 participate in the Training Program annually. New Designated
13 Employees shall participate in the Training Program within thirty
14 (30) days of their hiring date; and
- 15 h. Records. Defendant shall maintain training records to document
16 compliance with this Paragraph and shall provide LA Waterkeeper
17 with a copy of these records within seven (7) days of receipt of a
18 written request.

19 29. SWPPP Revisions.

- 20 a. Initial SWPPP Revisions. Defendant shall amend the Facility's
21 SWPPP to incorporate the requirements in this Consent Decree
22 and comply with the General Permit and submit the complete,
23 updated SWPPP to LA Waterkeeper within thirty (30) days of the
24 Effective Date for LA Waterkeeper's review and comment. The
25 complete, updated SWPPP shall contain, at a minimum, the
26 following elements:
- 27 i. A revised pollutant source assessment, including all
28 elements required by section X.G of the General Permit as

well as assessments of the potential for the Facility's storm water discharges to contain pollutants for which the Receiving Waters are 303(d) listed and/or have Total Maximum Daily Loads;

- ii. A detailed narrative description and assessment of each industrial activity with the potential to impact storm water quality occurring at the Facility as required by section X.G of the General Permit;
- iii. Descriptions of all BMPs in accordance with section X.H.4 of the General Permit, including without limitation BMPs required by this Consent Decree;
- iv. A set of site maps that comply with section X.E of the General Permit and provisions of this Consent Decree;
- v. A MIP as required by sections XI and X.I of the General Permit;
- vi. A designation (by position/title) of employees responsible for carrying out storm water management, monitoring, sampling and SWPPP implementation, e.g., visual inspection of each specific area, monitoring each specific BMP, sampling, etc.; and
- vii. A Training Program as described above in Paragraph 28.

b. Additional SWPPP Revisions.

- i. Within thirty (30) days after approval of any Action Plan by LA Waterkeeper (or resolution pursuant to Dispute Resolution), Defendant shall revise the then-current SWPPP to reflect the changes required by the Action Plan and submit the complete, updated SWPPP to LA Waterkeeper for LA Waterkeeper's review and comment.

1 ii. Within thirty (30) days after any changes in industrial
 2 activities, sources of industrial pollutants, changes to
 3 Discharge Points, or changes to sections of the SWPPP
 4 identified in the SWPPP as requiring a SWPPP revision
 5 (including but not limited to, changes in Facility contacts or
 6 PPT members, changes or additions of BMPs, or changes in
 7 or additions of industrial activities that impact storm water
 8 discharge), Defendant shall revise the then-current SWPPP
 9 to reflect such changes and submit the complete, updated
 10 SWPPP to LA Waterkeeper for LA Waterkeeper’s review
 11 and comment.

12 c. Review of SWPPP. For any SWPPP updates pursuant to
 13 Paragraphs 29.a. and 29.b., LA Waterkeeper shall have thirty (30)
 14 days upon receipt of Defendant’s complete SWPPP to provide
 15 Defendant with comments. Within thirty (30) days of receiving
 16 LA Waterkeeper’s comments and proposed changes to the
 17 SWPPP, Defendant shall consider each of the comments and
 18 proposed changes and either accept them or justify in writing why
 19 a change is not incorporated. The Parties agree to work in good
 20 faith to resolve any disputes with respect to the SWPPP, and any
 21 remaining disputes will be resolved through timely initiation of
 22 the dispute resolution procedures in Section IV below. Following
 23 its incorporation of proposed modification or additions (if any)
 24 into each revised SWPPP, Defendant shall upload the revised
 25 SWPPP to SMARTS.

26 **E. COMPLIANCE MONITORING AND REPORTING**

27 30. LA Waterkeeper may conduct one annual site inspection (“Site
 28 Inspection”) during each Reporting Year during the Term for the purpose of ensuring

1 compliance with this Consent Decree and the General Permit. In the event of a
2 dispute regarding Defendant's compliance with this Consent Decree, and provided a
3 Site Inspection would be relevant to resolving the Parties' dispute, the Parties agree to
4 meet and confer regarding an additional Site Inspection at Plaintiff's request. Plaintiff
5 shall not unreasonably request, and Defendant shall not unreasonably deny, one
6 additional Site Inspection. Any Site Inspection shall occur during normal business
7 hours, and LA Waterkeeper will provide Defendant with at least forty-eight (48)
8 hours notice during dry weather or twenty-four (24) hours notice during wet weather
9 prior to a Site Inspection. For any Site Inspection requested to occur in wet weather,
10 Plaintiff shall be entitled to adjust timing or reschedule during normal business hours
11 in the event the forecast changes and anticipated precipitation appears unlikely, and
12 thus frustrates the purpose of visiting the Facility in wet weather. Notice will be
13 provided by electronic mail to the individual(s) designated below at Paragraph 58.
14 During the Wet Weather inspection, Plaintiff may request that Defendant collect a
15 sample of industrial storm water discharge from the Facility's designated industrial
16 discharge point(s) referenced in its SWPPP, to the extent that such discharges are
17 occurring. Defendant shall collect the sample and provide a split sample to LA
18 Waterkeeper. LA Waterkeeper's representative(s) may observe the split sample(s)
19 being collected by Defendant's representative. LA Waterkeeper shall be permitted to
20 take photographs or video recording during any Site Inspection.

21 31. Document Provision. During the Term, Defendant shall notify and
22 submit documents to LA Waterkeeper as follows:

- 23 a. Defendant shall copy LA Waterkeeper on all compliance
24 documents, monitoring and/or sampling data, written
25 communications and/or correspondences, or any documents
26 related to storm water quality at the Facility that are submitted to
27 the Regional Board, the State Board, and/or any state or local
28 agency, county or municipality;

b. Within five (5) business days of receipt by Defendant, send to LA Waterkeeper any compliance document, inspection report, written communication and/or correspondence, or any document related to storm water quality at the Facility received by Defendant from the Regional Board, the State Board, and/or any state or local agency, county, municipality. Defendant shall mail paper copies or email electronic copies of documents to LA Waterkeeper at the relevant notice address contained below.

32. Compliance Monitoring. Defendant agrees to partially defray costs associated with Plaintiff's monitoring of Defendant's compliance with this Consent Decree during the Term by paying Five Thousand Dollars (\$5,000.00) per year. The initial annual payment shall be made within thirty (30) days of the Entry Date, and each subsequent annual payment shall be made on the applicable anniversary of the Entry Date. In the event that there is an additional Site Inspection in a given year to resolve a dispute pursuant to Paragraph 30, Defendant shall reimburse LA Waterkeeper an additional Two Thousand Five Hundred Dollars (\$2,500.00) during such year. Payment shall be made within thirty (30) days after any additional Site Inspection, as applicable. All payments shall be made via check, made payable to: "Los Angeles Waterkeeper" via certified mail, return receipt requested to Los Angeles Waterkeeper, c/o Barak Kamelgard, 360 E 2nd Street Suite 250, Los Angeles, CA 90012. Failure to submit payment as required under this Paragraph will constitute breach of the Consent Decree.

F. ENVIRONMENTAL MITIGATION, LITIGATION FEES AND COSTS, MISSED DEADLINES, AND INTEREST

33. Environmental Mitigation Project. To fund environmental project activities that will reduce or mitigate the impacts of storm water pollution from industrial activities occurring in Los Angeles River watershed, Defendant agrees to make a payment totaling Thirty-Five Thousand Dollars (\$35,000.00) to the Rose

1 Foundation made within thirty (30) days of the Entry Date, payable to the Rose
2 Foundation for Communities and the Environment and sent via overnight mail to
3 Rose Foundation, 201 4th Street, Suite 102, Oakland, CA 94607. Failure to submit
4 payment as required under this Paragraph will constitute breach of the Consent
5 Decree.

6 34. LA Waterkeeper's Fees and Costs. Defendant agrees to pay a total of
7 Fifty-five Thousand Dollars (\$55,000.00) to LA Waterkeeper to partially reimburse
8 Plaintiff for their investigation fees and costs, expert/consultant fees and costs,
9 reasonable attorneys' fees, and other costs incurred as a result of investigating and
10 filing the lawsuit, and negotiating a resolution of this matter within thirty (30) days of
11 the Entry Date. The payment shall be made payable to: Lozeau Drury LLP and
12 delivered by overnight carrier to Lozeau Drury LLP, Attn: Michael Lozeau, 1939
13 Harrison St., Ste. 150, Oakland, CA 94612. Failure to submit payment as required
14 under this Paragraph will constitute breach of the Consent Decree.

15 35. Missed Deadlines. In the event that Defendant fails to submit to LA
16 Waterkeeper any payment, document, report, or communication required by this
17 Consent Decree, Defendant shall pay a stipulated payment of Five Hundred Dollars
18 (\$500) per day. Such stipulated payments shall be made by check payable to: Rose
19 Foundation for Communities and the Environment, and such funds shall be used for
20 the sole purpose of funding environmentally beneficial projects, as described in
21 Paragraph 33 Payment shall be sent via overnight mail to Rose Foundation, 201 4th
22 Street, Suite 102, Oakland, CA 94607. Defendant agrees to make the stipulated
23 payment within fourteen (14) days after the resolution of the event that precipitated
24 the stipulated payment liability.

25 36. Interest on Late Payments. Defendant shall pay interest on any
26 payments, fees, or costs owed pursuant to this Consent Decree that are not received
27 by the due date. The interest shall accrue starting the next business day after the
28 payment is due and shall be computed at a rate equal to the lower of: (i) 10% per year

(0.833% per month); or (ii) the maximum rate permitted by applicable law. Interest shall continue to accrue daily on any outstanding balance until Defendant is current on all payments then due under this Consent Decree, and shall be paid at the same time that the payments, fees, or costs owed are paid to LA Waterkeeper. Interest on late payments shall be paid by check payable to: Rose Foundation for Communities and the Environment, and such funds shall be used for the sole purpose of funding environmentally beneficial projects, as described in Paragraph 33 Payment shall be sent via overnight mail to Rose Foundation, 201 4th Street, Suite 102, Oakland, CA 94607.

IV. DISPUTE RESOLUTION

37. This Court shall retain jurisdiction over this matter for the Term for the purposes of enforcing its terms and conditions, and adjudicating all disputes among the Parties that may arise under the provisions of this Consent Decree. The Court shall have the power to enforce this Consent Decree with all available legal and equitable remedies, including contempt.

38. Meet and Confer. Either party to this Consent Decree may invoke the dispute resolution procedures of this Section IV by notifying the other party in writing of the matter(s) in dispute and of the disputing party's proposal for resolution. The Parties shall then meet and confer in good faith (either telephonically or in person) within ten (10) days of the date of the notice in an attempt to fully resolve the dispute no later than thirty (30) days from the date of the notice.

39. Settlement Conference. If the Parties cannot resolve the dispute within thirty (30) days of the meet and confer described in Paragraph 38 the Parties agree that the dispute may be submitted for formal resolution by filing a motion before the United States District Court for the Central District of California. The Parties agree to request an expedited hearing schedule on the motion.

40. In resolving any dispute arising from this Consent Decree before the Court, the prevailing Party shall be entitled to seek fees and costs incurred pursuant to

the provisions set forth in Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), and applicable case law interpreting such provisions, or as otherwise provided for by statute and/or case law.

V. MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE

41. Plaintiff's Waiver and Release of Defendant. In consideration of the above, upon the Effective Date of this Consent Decree, Plaintiff, on its own behalf and on behalf of its officers and directors, release Defendant, its officers, directors, managers, employees, members, parents, subsidiaries, divisions, affiliates, successors or assigns, agents, attorneys and other representatives, from and waives all claims that were raised in the 60-Day Notice Letter and/or the Complaint up to and including the Termination Date of this Consent Decree.

42. Defendant's Waiver and Release of Plaintiff. In consideration of the above, upon the Effective Date of this Consent Decree, Defendant, on its own behalf and on behalf of its officers, directors, employees, parents, subsidiaries, affiliates and each of their successors or assigns, release Plaintiff, its officers and directors, from and waives all claims related to the 60-Day Notice Letter and/or the Complaint up to and including the Termination Date of this Consent Decree.

43. Nothing in this Consent Decree limits or otherwise affects Plaintiff's rights to address or take any position that it deems necessary or appropriate in an informal or formal proceeding before the State Board, Regional Board, EPA, or any other judicial or administrative body on any matter relating to Defendant's compliance at the Facility with the General Permit or the Clean Water Act occurring or arising after the Effective Date.

VI. MISCELLANEOUS PROVISIONS

44. No Admission of Liability. The Parties enter into this Consent Decree for the purpose of avoiding prolonged and costly litigation. Neither the Consent Decree nor any payment pursuant to the Consent Decree shall constitute or be construed as a finding, adjudication, or acknowledgement of any fact, law or liability,

1 nor shall it be construed as an admission of violation of any law, rule, or regulation.
2 Defendant maintains and reserves all defenses it may have to any alleged violations
3 that may be raised in the future.

4 45. Counterparts. This Consent Decree may be executed in any number of
5 counterparts, all of which together shall constitute one original document. Telecopy
6 and/or facsimile copies of original signature shall be deemed to be originally
7 executed counterparts of this Consent Decree.

8 46. Authority. The undersigned representatives for Plaintiff and Defendant
9 each certify that s/he is fully authorized by the party whom s/he represents to enter
10 into this Consent Decree. A Party's signature to this Consent Decree transmitted by
11 facsimile or electronic mail shall be deemed binding.

12 47. Construction. The language in all parts of this Consent Decree shall be
13 construed according to its plain and ordinary meaning, except as to those terms
14 defined in the Permit, the Clean Water Act, or specifically herein. The captions and
15 paragraph headings used in this Consent Decree are for reference only and shall not
16 affect the construction of this Consent Decree.

17 48. Full Settlement. This Consent Decree constitutes a full and final
18 settlement of this matter.

19 49. Integration Clause. This is an integrated Consent Decree. This Consent
20 Decree is intended to be a full and complete statement of the terms of the agreement
21 between the Parties and expressly supersedes any and all prior oral or written
22 agreements, covenants, representations, and warranties (express or implied)
23 concerning the subject matter of this Consent Decree.

24 50. Severability. In the event that any provision, paragraph, section, or
25 sentence of this Consent Decree is held by a court to be unenforceable, the validity of
26 the enforceable provisions shall not be adversely affected.

27 51. Choice of Law. The laws of the United States shall govern this Consent
28 Decree.

1 52. Diligence. Defendant shall diligently file and pursue all required permit
2 applications for any required BMPs and shall diligently procure contractors, labor,
3 and materials needed to complete all BMPs by the required deadlines.

4 53. Effect of Consent Decree. Compliance with this Consent Decree does
5 not mean that Defendant is complying with the General Permit, the Clean Water Act,
6 or any other law, rule, or regulation.

7 54. Negotiated Settlement. The Settling Parties have negotiated this Consent
8 Decree, and agree that it shall not be construed against the party preparing it, but shall
9 be construed as if the Settling Parties jointly prepared this Consent Decree, and any
10 uncertainty and ambiguity shall not be interpreted against any one party.

11 55. Modification of the Consent Decree. This Consent Decree, and any
12 provisions herein, may not be changed, waived, discharged, or terminated unless by a
13 written instrument, signed by the Parties and approved by the Court. Any request to
14 modify any provision of the Consent Decree, including but not limited to any
15 deadline(s) set forth herein, must be made in writing at least fourteen (14) days before
16 the existing deadline(s) applicable to the provision(s) proposed to be modified.

17 56. Assignment. Subject only to the express restrictions contained in this
18 Consent Decree, all of the rights, duties and obligations contained in this Consent
19 Decree shall inure to the benefit of and be binding upon the Parties, and their
20 successors and assigns. Defendant shall notify Plaintiff within ten (10) days of any
21 assignment.

22 57. Force Majeure. Neither of the Parties shall be considered to be in default
23 in the performance of any of their respective obligations under this Consent Decree
24 when performance becomes impossible due to a Force Majeure event. A Force
25 Majeure event is any circumstance beyond a Settling Party's control, including
26 without limitation, any act of God, war, fire, earthquake, flood, windstorm, pandemic,
27 public health crisis, or natural catastrophe; criminal acts; civil disturbance, vandalism,
28 sabotage, or terrorism; restraint by court order or public authority or agency; or action

1 or non-action by, or inability to obtain the necessary authorizations or approvals from
 2 any governmental agency. A Force Majeure event shall not include normal inclement
 3 weather, economic hardship, inability to pay, or employee negligence. Any party
 4 seeking to rely upon this Paragraph to excuse or postpone performance shall have the
 5 burden of establishing that it could not reasonably have been expected to avoid the
 6 Force Majeure event and which by exercise of due diligence has been unable to
 7 overcome the failure of performance. The Parties shall exercise due diligence to
 8 resolve and remove any Force Majeure event.

9 58. Correspondence. All notices required herein or any other correspondence
 10 pertaining to this Consent Decree shall be, the extent feasible, sent via electronic mail
 11 transmission to the e-mail address listed below, or if electronic mail is not feasible,
 12 then by certified U.S. mail with return receipt, or by hand delivery to the following
 13 addresses:

14 If to Plaintiff:

15 Los Angeles Waterkeeper
 16 Barak Kamelgard
 17 Benjamin Harris
 18 Madeleine Siegel
 19 360 E 2nd St., Suite 250
 20 Los Angeles, CA 90012
 21 Email: barak@lawaterkeeper.org
 Email: ben@lawaterkeeper.org
 Email: madeleine@lawaterkeeper.org
 Phone: (310) 394-6162

22 With copies to:

23 Michael R. Lozeau
 24 LOZEAU DRURY LLP
 25 1939 Harrison St., Suite 150
 26 Oakland, CA 94612
 michael@lozeaudrury.com
 Phone: (510) 836-4200

If to Defendant:

Shaun Elder
 Dywidag Systems International,
 USA, Inc.
 320 Marmon Drive
 Bolingbrook, IL 60440
 Email: Shaun.Elder@dywidag.com

With copies to:

Mike Kelley
 Dywidag Systems International,
 USA, Inc.
 2154 South Street,
 Long Beach, California, 90805
 Email: mike.kelley@dywidag.com

1 Notifications of communications shall be deemed submitted three (3) days after the
 2 date that they are postmarked and sent by first-class mail, or immediately after
 3 acknowledgement of receipt via email by the receiving party. Any change of address
 4 or addresses shall be communicated in the manner described above for giving notices.


5 59. If for any reason the Federal Agencies should object to entry of this
 6 Consent Decree or to any portion of this Consent Decree or the District Court should
 7 decline to approve this Consent Decree in the form presented, the Parties shall use
 8 their best efforts to work together to modify the Consent Decree within thirty (30)
 9 days so that it is acceptable to the Federal Agencies or the District Court. If the
 10 Parties are unable to modify this Consent Decree in a mutually acceptable manner
 11 that is also acceptable to the District Court, this Consent Decree shall immediately be
 12 null and void as well as inadmissible as a settlement communication under Federal
 13 Rule of Evidence 408 and California Evidence Code section 1152.

14 The Parties hereto enter into this Consent Decree and submit it to the Court for
 15 its approval and entry as a final judgment.
 16


17 IN WITNESS WHEREOF, the undersigned have executed this Consent Decree
 18 as of the date first set forth below.
 19

20 APPROVED AS TO CONTENT
 21

22
 23 Dated: April 11, 2024

24 By: 
 25 Bruce Reznik
 26 Executive Director
 27 Los Angeles Waterkeeper

28 Dated: April 8, 2024

By: 
 Mike Kelley
 President

1 APPROVED AS TO FORM

2 Lozeau Drury LLP

3
4 Dated: April 11, 2024

5 By: Michael R. Lozeau
6 Michael R. Lozeau
7 Attorney for Plaintiff
8 Los Angeles Waterkeeper

9 Robins Kaplan LLP

10 Dated: April 8, 2024

11 By: Jason R. Fair
12 Jason R. Fair
13 Attorney for Defendant
14 Dywidag Systems International,
15 USA, Inc.

16 **IT IS SO ORDERED.**

17 **FINAL JUDGMENT**

18 Upon approval and entry of this Consent Decree by the Court, this Consent
19 Decree shall constitute a final judgment between the Plaintiff and Defendant.

20 Dated: June 24, 2024

CENTRAL DISTRICT OF CALIFORNIA

21
22
23 / s / Sagar
24 HONORABLE ALKA SAGAR
25 United States Magistrate Judge
26
27
28